STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY d/b/a Ameren Illinois, Petitioner Rate MAP-P Modernization Action Plan - Pricing Filing	))))))	Docket No. 12-0293

APPLICATION FOR REHEARING OF AMEREN ILLINOIS COMPANY

Mark A. Whitt
Christopher T. Kennedy
WHITT STURTEVANT LLP
88 East Broad Street, Suite 1590
Columbus, Ohio 43215
(614) 224-3911
whitt@whitt-sturtevant.com
kennedy@whitt-sturtevant.com

Albert D. Sturtevant
Rebecca L. Segal
WHITT STURTEVANT LLP
180 N. LaSalle Street, Suite 2001
Chicago, Illinois 60601
(312) 251-3017
sturtevant@whitt-sturtevant.com
segal@whitt-sturtevant.com

Christopher W. Flynn
Attorney at Law
180 N. LaSalle Street, Suite 2001
Chicago, Illinois 60601
cwflynnlaw@gmail.com

Edward C. Fitzhenry
Matthew R. Tomc
AMEREN SERVICES COMPANY
One Ameren Plaza
1901 Chouteau Avenue
St. Louis, Missouri 63166
(314) 554-3553
(314) 554-4014 (fax)
efitzhenry@ameren.com
mtomc@ameren.com

DATED: December 21, 2012

TABLE OF CONTENTS

Page

I. INTRODUCTION AND POSITION SUMMARY

Ameren Illinois Company (AIC or Company), pursuant to Section 10-113(a) of the Illinois Public Utilities Act (PUA or the Act), 220 ILCS 5/10-113(a), and Section 220.880 of the Illinois Commerce Commission's (ICC or Commission) Rules of Practice and Procedure, 83 Ill. Admin. Code 200.880, hereby requests that the Commission grant rehearing of its December 5, 2012 Order in this matter (the Order) to amend the Order in several respects.

First, the Commission should grant rehearing on the issuance of allowable costs for the "*Focused Energy. For Life.*" initiative. It is not justifiable to disallow *every dollar* (or even 50 cents of every dollar) paid to a particular consultant for services on that initiative, based on the applicable law and the evidence in the record. This evidence shows the purpose and primary design of the initiative was to educate consumers, not promote AIC's image. The Act requires the Commission to identify specific "advertisements" that had a "promotional" or "goodwill" purpose or primary design. That did not happen. And that means the Commission's findings will not be upheld on appeal.

The Commission should grant rehearing to consider additional evidence and briefing on these issues: (1) which AIC electric delivery expenses that were charged to Accounts 909 and 930.1 in 2011 fall within the scope of the "advertising" standards set forth in Section 9-225 of the Act; (2) what evidence and level of review is required to determine whether a specific advertisement has a "promotional" or "goodwill" purpose or primary design; and (3) whether the specific, individual vendor charges disallowed by the Commission's order are "promotional" or "goodwill" costs that are not "in the best interest" of AIC's customers.

Second, the Commission should grant rehearing on the propriety of an adjustment for vacation pay. The Commission's Order in this docket claims the "lag between the accruals and the cash payments creates a constant non-investor source of funds which should be deducted

from rate base similar to other operating reserves." (Order 13.) But this claim has no basis in generally accepted ratemaking principles. And it has no basis in the record in this proceeding. There is no continuous, unpaid liability. There is an annual accrual paid in full within a year, each year. The Commission has ignored this premise in making rate base deductions for accrued vacation pay in three formula rate proceedings, Dockets 11-0721, 12-0001, and 12-0293. However, the fact that the Commission has been consistent in its prior decisions does not make the conclusion correct.

Third, the EIMA requires that rates reflect the "utility's actual capital structure for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law." 220 ILCS 5/16-108.5. The law is clear: the actual capital structure, less goodwill, for the applicable year must be used to set rates, barring a finding of imprudence, unreasonableness or unlawfulness. Notwithstanding the EIMA's clear directive, however, Staff offered various arguments in support of its request that the Commission use an imputed capital structure, using Ameren Corporation's common equity ratio as a hypothetical proxy in the place of AIC's actual 2011 year-end common equity ratio. AIC believes that it successfully refuted each of these arguments, and the Order apparently agrees, but then accepts the Staff's adjustment anyway on the grounds that Staff had enough unpersuasive arguments they must add up to something. Rehearing should be granted to reverse this conclusion because it is contrary to law, not supported by substantial evidence, and the manner in which the determination was reached is contrary to law.

Fourth, with respect to its conclusion on accumulated deferred income taxes (ADIT) on projected plant, the Commission continues to direct an adjustment that is not authorized under the EIMA. In reading an adjustment for ADIT into Section 16-108.5(c), the Commission

disregards the plain language of the EIMA in order to effectuate its own ends. As a result, the Commission has disregarded the processes of compromise and balancing that resulted in the EIMA and has thus prevented the effectuation of legislative intent. The Commission should grant rehearing on this issue for the purpose of reversing the Order's unlawful adjustment for projected plant ADIT.

Finally, the Order erred in: (1) providing that the reconciliation rate base shall be determined using average balances rather than year end; and (2) providing for an interest rate on reconciliation amounts equal to the short term debt cost rate instead of the weighted average cost of capital.. These findings are inconsistent with Illinois law, and in particular with the express terms of the Electric Infrastructure and Modernization Act (EIMA); are unsupported by substantial evidence of record; and are arbitrary and capricious.

On these issues, the Commission continues to rely on conclusions reached in Docket 12-0001 that have rewritten the terms of the EIMA and the bargain that law strikes. But the EIMA is intended to "provide for the recovery of the utility's actual costs of delivery services." 220 ILCS 5/16-108.5(c)(1). The Order's continued application of arbitrary revisions to the law on these issues produce a revenue stream that is far less than AIC's actual costs, and that will continue to be far less than AIC's actual costs, despite the use of formula rates. The Commission has essentially, and improperly, imposed a regulatory scheme different from the one the legislature has mandated, as at least one Commissioner, Commissioner O'Connell Diaz, has recognized in a dissenting opinion in Docket 12-0001. Ameren Ill. Co., Dissent, Docket 12-0001, (Dec. 12, 2012). The legislature has mandated a detailed and comprehensive scheme, that balances a variety of burdens and benefits, within the EIMA. The Commission must follow that mandate, no matter how reasonable the Commission may believe some other action to be. A

reviewing court will judge the Commission's actions by reference to the statute, and not by reference to Commission's view of how things should work. In that light, these conclusions of the Order cannot stand.

The Order states that there have been no changes in fact or law since the Docket 12-0001 Order that would support any change in result. But this is not correct. Illinois House Resolution 1157, which is part of the evidentiary record in this case (Ameren Ex. 18.1) but was not in Docket 12-0001, confirms that "no statutory authority was given to the Illinois Commerce Commission to set rate base and capital structure using average numbers that do not represent final year-end values reflected in the FERC Form 1, and the Illinois Commerce Commission's use of such average is contrary to the statute." H. Res. 1157, 97th Gen. Assemb. Reg. Sess. (Ill. 2012). After the final order in Docket 12-0001, the Illinois Senate reiterated H.R. 1157 in S.R. 821, passing an almost identical resolution by an overwhelming margin of 47 to 4. S. Res. 821, 97th Gen. Assemb. Reg. Sess. (Ill 2012); Notice of Legislative Action (Corr.), Docket 12-0293 (Dec. 3, 2012). Thus, the legal and evidentiary landscape clearly is different in this proceeding, and the Order is incorrect in concluding otherwise.

II. ARGUMENT

A. The Order Erred By Disallowing Reasonable and Prudent Costs Incurred in Connection with Producing and Publishing Customer Communications.

In 2011, AIC launched a mass media educational campaign. The approach and messages were grounded in research that identified key topics important to AIC's customers. The primary purpose of the campaign was to identify, develop and deliver messages in a clear, consistent and cost-effective manner throughout AIC's service territory. The messages were crafted to address themes such as smart grid technology, electric choice, reliability, safety, storm preparation, energy conservation, and energy efficiency – the types of advertisements that are expressly

allowable advertising under the Public Utilities Act. The tag line for this communications initiative was "*Focused Energy. For Life.*"

In connection with this new customer education initiative, AIC incurred costs for outside vendor services to consult on and manage the various projects and assist with the production and publication of the various messages. The sworn testimony of AIC witness Ms. Geralynn Lord, who directed this initiative, explained the crucial role Simantel Group, the vendor, played in the oversight, design and rollout of the messages. (Tr. 185-189.) Simantel had the expertise to develop and manage the video, audio, print and digital communications that accompany an advertising initiative. (Id.) It had website professionals with the skills necessary to create and host the websites AIC uses to communicate with customers. (Id.) It had the resources to design booth displays, posters and brochures for community outreach events. (Id.) It had the ability to conduct research to identify the topics considered by customers to be most important. (Id.) It assisted in identifying the most cost-effective mediums for AIC to reach consumers with its messaging. (Id.) It provided AIC with both the resources and the project management skills that AIC had not internalized. Relying on outside vendors allows AIC to avoid legacy costs and is good industry practice in determining how to effectively target communications expenses.

The services that Simantel provided in 2011 helped AIC to develop the mass media messages and strategies on customer communications ranging from energy efficiency, energy conservation, safety, storm preparation, to electric choice, electric reliability and smart grid. These messages can be seen in the examples of the television and radio scripts and Internet banners that Simantel developed, which were attached to the surrebuttal testimony of Ms. Lord. (See Ameren Ex. 25.1, pp. 1-13.) They can be seen in the internal talking points that Simantel created to explain the purpose of the initiative. (See AG/AARP/Ameren Rev. Cross Ex. 1, pp. 4-

8, 10-15.) They can be seen in the mass media strategies, spots and messages that Simantel suggested. (See id., pp. 16-21.) They can be seen in the schedule of television, radio, newspaper and digital advertisements. (See id., p. 9.) They can be seen in the detailed worksheet of Simantel's invoices, which listed the total amount, the purchase order, the invoice number, the voucher number, the electric allocated cost, the advertising category, the customer benefit and the description of the billed services. (Ameren Ex. 24.3.)

The adjustment adopted by the Commission's order, however, disallows *every single dollar* paid to Simantel in 2011 (and allocated to AIC's electric operations) for the consulting resources, work product and project management skills that the vendor provided on this customer education initiative. It strains logic to believe that each Simantel charge on these projects was unjust and unreasonable. The law cited by the Commission's Order does not support that global adjustment. And neither does the record in this proceeding.

The Public Utilities Act allows utilities to recover "advertising" expenses. 220 ILCS 5/9-225(3). Section 9-225(3) of the Act and Part 295.30 of the Commission's rules identify the advertising costs that "shall be considered allowable operating expenses" for an electric utility. The "allowable" expenses include advertising costs incurred to inform consumers about: (1) ways to conserve energy or reduce peak demand; (2) service interruptions, safety measures or emergency conditions; (3) the use of energy efficient appliances, equipment or services; (4) customer service and the terms and conditions of service; and (5) off-peak usage. The sworn testimony and documentary evidence submitted by AIC shows the customer messages, on which Simantel consulted, fit squarely within those recoverable advertising categories.

The Commission's Order, however, concludes *all* Simantel charges were "marketing efforts" that should be disallowed under the Act as "promotional," "institutional" or "goodwill"

advertising. (Order 63.) The costs at issue cannot be forced into those pigeonholes. For starters, Section 225 of the Act only applies to the costs of "advertising," not every legitimate business expense incurred by AIC's Community and Public Relations group. Section 9-225(1)(a) of the Public Utilities Act defines "Advertising" as "the commercial use, by an electric, gas, water or sewer utility, of any media, including newspapers, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to such utility's consumers." Part 295.20 of the Commission's rules further provides that "[i]n determining what constitutes a 'substantial number,' the Commission shall consider, among other things, the medium of communication used, the actual number of persons reached, and the size of the utility involved." The Commission's Order cites examples of business cards, customer surveys and updated policy posters for employees and claims that how such expenditures constitute recoverable costs under Section 9-225 is unclear. (Order 64.) The more pertinent question, which the Commission *never* addressed, is why such expenses are even analyzed under Section 9-225 in the first place. That oversight alone amounts to reversible error.

The record also does not support the contention that all of these outside vendor charges were "promotional," "institutional" or "goodwill" in nature. The Act narrowly defines these categories by the intent or purpose of the particular ad or script. To be considered disallowable "promotional" advertising, the ad or script has to be "for the *purpose* of encouraging any person to select or use the service of additional service of a utility or the selection or installation of any appliance or equipment designed to use such utility's service." 220 ILCS 5/9-225(1)(c). To be considered disallowable "institutional" or "goodwill" advertising, the ad or script has to be "*designed primarily* to bring the utility's name before the general public in such a way as to improve the image of the utility or to promote controversial issues for the utility or industry."

220 ILCS 5/9-225(1)(d). Even then, Section 9-225(2) permits recovery of "promotional," "institutional" or "goodwill" advertising if the Commission finds the advertising is "in the best interest of the Consumer." Part 295.10 further requires the Commission, in determining whether to allow "promotional," "institutional" or "goodwill" advertising in rates, to consider, at a minimum, "whether the advertising at issue is necessary to protect consumers, to promote more efficient use of the public utility's system, or to allow the public utility to compete effectively against non-regulated competitors."

The burden of proof necessary to disallow "advertising" costs under the Act is not met by simply labeling an initiative as "promotional," "institutional," or "goodwill." There must be evidence indicating that the scripts and ads in question had the "purpose" or were "primarily designed" to promote the utility's services or image. By necessity, that requires an ad-by-ad, script-by-script review to determine whether a particular ad or script is both disallowable and not in the best interest of the consumer. The Commission did not engage in that type of detailed analysis in this case. No party proposed a disallowance tied to specific objectionable advertisements or Simantel invoices. The Commission's Order failed in this regard as well, despite going to the trouble of making line-item disallowances to other items like P-card charges and sponsorships. The Commission's conclusions do not even give any consideration to the AG/AARP's proposal to disallow only 50% of the vendor charges.

The Commission's Order claims Staff, CUB and AG/AARP "offer many examples of advertisements from the FEFL campaign that by all appearances have a primary purpose of brand promotion." (Order 34.) A review of the parties' evidence tells a different story. CUB witness Mr. Ralph Smith, for instance, reviewed only two publications (totaling five pages) AIC provided in response to Staff Data Request MHE 2.07: a one-page print public advertisement and

a four-page insert for an internal Ameren employee newsletter. (CUB Init. Br. 14-15.) The costs incurred to develop and produce these five pages are minuscule compared to the aggregate costs in dispute. For example, the entire electric cost for the Ameren Journal insert charged to Account 909 was $12,300, or 2% of the total amount of advertising costs at issue. (Ameren Ex. 25.0 (Lord Sur.), p. 6.) The internal employee newsletter isn't even an example of an advertisement for a substantial number of customers. That means Mr. Smith's disallowance is based on just *one* print advertisement.

The evidence that supported Staff's 100% disallowance was just as weak. Staff mentions three pieces of "evidence" in support of its adjustment: (1) a picture of the Ameren sign at Busch Stadium, which was taken from an internal PowerPoint presentation that AIC produced in response to AG/AARP's discovery requests; (2) a "heading" in another internal document that concerns "Brand Investment"; and (3) the same two examples cited by CUB. (Staff Init. Br. 17.) The additional (incendiary) examples Staff cites are not even relevant to the costs at issue. That an internal PowerPoint has a picture of the Ameren sign at Busch Stadium is meaningless. The cost of that sign is not even included in the amount at issue. The internal discussion about the "benefits of corporate branding" is similarly pointless. Staff has not linked the "heading" in the internal document to any particular advertisement produced in 2011, and AIC removed the costs incurred in 2011 in researching a relationship between "brand investment" and "bottom line."

That AG/AARP conceded 50% of the "*Focused Energy. For Life.*" costs are recoverable from ratepayers doesn't make their evidentiary support any stronger. They point to no evidence that a particular ad or script was "designed primarily" to improve AIC's image. Their adjustment isn't even tied to a particular subset of invoices. In both Docket 12-0001 and in this proceeding, AIC provided a voucher level detail for all of the invoiced advertising expenses

allocated to electric operations and charged to Account 909, including all of the vouchers included under the corporate "*Focused Energy. For Life.*" initiative. (See Ameren Exs. 14.3; 24.3.) This detailed disclosure has allowed Staff to propose targeted disallowances for particular invoices (e.g., Strategic International Group fees). It also has allowed AIC to weed out and self-disallow vouchers that were improperly charged to AIC's electric operations. There is no reason that same standard and process should not be used for all categories of advertising expenses, in particular when the Act calls for a review of the purpose and design of each ad and script.

It isn't reasonable to conclude that *every dollar* spent on Simantel's services on the "*Focused Energy. For Life.*" initiative was spent with the express intention of promoting or improving AIC's image. And it isn't justifiable to disallow *every dollar* (or even 50 cents of every dollar) paid to Simantel for services on that initiative, based on the applicable law and the evidence in the record. This evidence shows the purpose and primary design of the initiative was to educate consumers, not promote AIC's image. The Act requires the Commission to identify specific "advertisements" that had a "promotional" or "goodwill" purpose or primary design. That did not happen. And that means the Commission's findings are contrary to the Act.

The Commission should grant rehearing to consider additional evidence and briefing on these issues: (1) which AIC electric delivery expenses that were charged to Accounts 909 and 930.1 in 2011 fall within the scope of the "advertising" standards set forth in Section 9-225 of the Act; (2) what evidence and level of review are required to determine whether a specific advertisement has a "promotional" or "goodwill" purpose or primary design; and (3) whether the specific, individual vendor charges disallowed by the Commission's order are "promotional" or "goodwill" costs that are not "in the best interest" of AIC's customers.

B. The Order Erred By Deducting Accrued Vacation Pay From Rate Base.

An accrued liability may be deducted from a utility's rate base, *if* the reserve represents a

retained source of non-investor supplied capital. That, however, is a big *if*. A leading text on public utility accounting explains what is a reserve of retained rate-supplied cash:

> When expense provisions required to create reserves are allowed in cost of service, the ratepayer is supplying funds to the utility in advance of actual need. The funds so supplied are generally available to the utility for supporting its rate base investment. Thus, the accumulated reserves are deducted from the rate base to avoid customers paying a return on funds they have supplied.

Hahne & Aliff, Accounting For Public Utilities § 4.04[8] (2009). The timing is critical. For the accrued liability to represent a source of ratepayer-supplied capital, the utility *must* receive the cash through rates *before* it needs to pays the expense. In other words, the utility has collected the funds, but has not yet spent them. With the cash already on hand, a deduction to rate base recognizes the amount of capital that ratepayers already have provided to fund investment.

In formula ratemaking, there will *never* be a source of cash for vacation pay retained by the utility. Again, the timing is critical. The accrued liability for vacation pay for the applicable calendar year (in this case, 2011) *always* will be an amount of expense that is paid within a year (in this case, 2012) before new formula rates are effective (in this case, 2013). This isn't like the accumulated reserve for depreciation. That represents the expired value of plant assets. This isn't like the amount of customer deposits. That represents available financing. This isn't like the OPEB liability. That represents the unfunded trust contributions. In those instances, a deduction to rate base is appropriate and defensible. In this case, it isn't. (AIC BOE 2-5.)

To understand the error in deducting the accrued liability for vacation pay from rate base, one only needs to look at when the expense accrues and is paid. Employees earn vacation pay in year one, and "cash in" on compensated absences in year two. The accrual recorded in year one represents the value of the compensated absences the employees may take in year two. Each year AIC makes an accrual for the estimated amount of vacation pay that will be earned that year.

At the same time, it pays the expense for the prior year and reverses the prior year's accrual. There is no continuing, unpaid liability. The annual accrual is an accounting mechanism that tracks the timing difference between when vacation pay is earned and paid. It is like writing on a piece of paper how much AIC owes its employees for vacation pay the following year. That IOU can't buy anything. It just recognizes the compensation that will be paid next year. This cycle of lag ensures there is not – there cannot be – a constant build-up of accumulating, unpaid expense that AIC previously has collected in rates and retained. The accrual isn't the amount AIC has kept. It is the amount AIC most certainly will pay, and soon. (AIC Rep. Br. 2-5.)

These facts are undisputed. In 2011, AIC accrued an amount of expense to reflect the estimated vacation pay that would be earned in 2011. In 2011, AIC also paid out the vacation benefits earned in 2010. The 2011 accrual existed on AIC's balance sheet as a liability, for 2011 and only 2011. In 2012, AIC compensated employees for the vacation earned in 2011, reversed the 2011 accrual, and made a new accrual for estimated 2012 vacation pay expense. In 2013, the new formula rate charges resulting from this proceeding are in effect. The result is evident: the annual payment of accrued vacation expense will always precede rate recovery of the expense. The cookie jar of cash supposedly set aside to fund the compensated absences is empty. It has always been emptied before costs have been recovered from ratepayers. (AIC Init. Br. 6-7.)

This is also undisputed. The Commission had not made this adjustment prior to the advent of formula rates. Nor could Staff and Intervenors cite any prior precedent, in Illinois or elsewhere, which justified their proposed ratemaking treatment. And what's more, the only other time a vacation pay liability adjustment was litigated in Illinois by a predecessor utility, the Commission rejected an adjustment to reflect the accrual, even an adjustment to working capital. See Illinois Power Co., Docket 91-0147, 131 P.U.R. 4th 1, 1992 Ill. PUC LEXIS 97, *41-43,

*65-67 (1992) (recognizing that the vacation pay accrual represents time owed to its employees rather than wages and does not represent a source of working capital, and rejecting the assumption that the liability had been fully funded by customers through rates).

The Commission's Order in this docket claims the "lag between the accruals and the cash payments creates a constant non-investor source of funds which should be deducted from rate base similar to other operating reserves." (Order 13.) That claim is a fiction. It has no basis in generally accepted ratemaking principles. And it has no basis in the record in this proceeding. There is no continuous, unpaid liability. There is an annual accrual paid in full within a year, each year. The Commission has ignored that fundamental premise in making rate base deductions for accrued vacation pay in three formula rate proceedings, Dockets 11-0721, 12-0001, and 12-0293. However, the fact that the Commission has been consistent in this respect does not make the conclusion any more correct. The Commission should grant rehearing on the propriety of an adjustment for vacation pay.

C. The Order Erred in its Failure to Use a Year-End Capital Structure and Improperly Reducing the Common Equity Ratio.

The Order erred in determining the capital structure in two respects: it fails to use a year-end capital structure, and it improperly reduces the common equity ratio. Both errors must be revised.

Capital Structure

The Order adopts Staff's use of average capital structure. (Order 106.) The Order's conclusion is based on only two arguments, each of which relies exclusively on the Commission's decision in Docket 12-0001. First, the Order finds that it may not modify the performance-based formula rate set in Docket 12-0001, but can only update inputs to the formula. (Order 106.) However, the Order issued in Docket 12-0001 should not be considered

determinative on this issue at this time, since AIC has appealed this result in Docket 12-0001.

The Order quotes extensively from the order in Docket 12-0001, in which the Commission concluded that the EIMA "did not specify exactly how the 'actual capital structure' is to be determined." Ameren Ill. Co., Order, Docket 12-0001, p. 105 (Dec. 5, 2012). However as AIC explained in briefing (AIC Init. Br. pp. 57-58, 77; AIC Reply Br. 38), the plain language of Section 16-108.5(c)(2) requires formula rates to "[r]eflect the utility's *actual capital structure* for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law." (Emphasis added.) Data concerning the "actual capital structure" must be derived from the same place as most other formula rate inputs: "*final* data based on [the] most recently filed FERC Form 1." In its most recently filed FERC Form 1/ ILCC Form 21, AIC's capital structure is shown in historical end-of-year amounts. (Ameren Ex. 18.0R (Nelson Sur.), pp. 10-11.) As also explained in AIC's Initial Brief, the conspicuous absence of the term "average" from the statute confirms that the legislature did not intend that average capital structure be used. (AIC Init. Br. 57, 70-71).

Second, the Order claims nothing has changed since Docket 12-0001. But this is incorrect. H.R. 1157 and S.R. 821 represent evidence of record in this case that was not part of the record in Docket 12-0001. (H.R. 1157 (Ill. 2012); S.R. 821 (Ill. 2012); Ameren Ex. 18.1.) And these Resolutions reflect exactly the type of change in circumstance from Docket 12-0001 that the Order states has not occurred. (Order 106.) Each resolution expresses "serious concerns" with the Commission's failure to abide by statutory directives in determining capital structure using average rather than year-end data, and finds that "no statutory authority was given to the Illinois Commerce Commission to set rate base and capital structure using average numbers that do not represent final year-end values reflected in the FERC Form 1, and the

Illinois Commerce Commission's use of such average is contrary to the statute." H.R. 1157 (Ill. 2012); S.R. 821 (Ill. 2012). Thus, the plain meaning of the EIMA, that year-end capital structure data must be used in formula ratemaking, could not be more apparent. (Ameren Ex. 18.1.) In addition, Senate Resolution 821, adopted after the evidentiary phase in this proceeding, says the same thing. H.R. 1157 and S.R. 821 confirm that the EIMA means what it says about capital structure. Accordingly, the Order should be revised to use a year-end capital structure.

Common Equity Ratio

The second error involves the arbitrary reduction of AIC's common equity ratio. Section 16-108.5 provides clear direction regarding the calculation of capital structure used in setting formula rates. The law requires that rates reflect the "utility's actual capital structure for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law." 220 ILCS 5/16-108.5. The law is clear: the actual capital structure, less goodwill, for the applicable year must be used to set rates, barring a finding of imprudence, unreasonableness or unlawfulness.

Notwithstanding the EIMA's clear directive, Staff offered various arguments in support of its request that the Commission use an imputed capital structure, using Ameren Corporation's common equity ratio as a hypothetical proxy in the place of AIC's actual 2011 year-end common equity ratio. AIC believes that it successfully refuted each of these arguments, and the Order apparently agrees, although it accepts the Staff's adjustment anyway.

The Order states (p. 108) that, "individually, the concerns raised by Staff are insufficient to win the day. But cumulatively, the Commission is persuaded that Staff's imputed capital structure is appropriate." This does not reflect sound logic or policy.

As AIC indicated at oral argument, the Commission's reasoning simply adds up

insufficient grounds for an adjustment and concludes that the total of various unpersuasive assertions equals a persuasive one. AIC analogized to a situation in which a building inspector assesses the safety of a house. He runs through various checks, and explains that there is no fire hazard, no mold risk, no radon gas, no shaky foundation, no leaky roof, no carbon monoxide, etc. When the homeowner asks, "so my house is safe, then?" the inspector answers, "goodness, no – it's a death trap. Didn't you hear me just mention fire, mold, radon gas, the foundation, the roof and carbon monoxide?" That's just what the Commission has done here. Its Order rejects various reasons why the common equity ratio is too high, and then concludes that the common equity ratio is too high.

Ultimately, the Order also falls back on the fact that the Commission adopted a similar adjustment in Docket 12-0001, which is now on appeal. The Commission is not bound to a prior decision, and should not honor one that is so plainly wrong. The Commission should revise the Order to reject Staff's adjustment to the common equity ratio for all the reasons stated in AIC's Initial and Reply Briefs.

In particular, AIC offered substantial testimonial evidence that its actual capital structure was reasonable and prudent, explaining why AIC targeted a capital structure between 51-55 percent and why AIC believes it should be at the high end of that range for the time being. (Ameren Ex. 12.0 (Martin Reb.), p. 5-7; Ameren Ex. 21.0 (Martin Sur.), p. 6.) Mr. Martin noted that the current debt rating of Ameren Illinois, while recently upgraded by Moody's, remains relatively weak with Standard and Poor's rating AIC one notch above junk bond status, and Moody's only two. (Ameren Ex. 21.0, p. 5.) He further explained that credit ratings agencies realize that the EIMA is relatively new, noting the "jury is still out" as to whether the new law will be credit supportive. (Id.) It is noteworthy that AIC is also a gas utility without the benefit

of formula rates. (Id., p. 7.) Mr. Martin concludes that the risk landscape of AIC dictates an equity ratio at the high end of the targeted range. (Ameren Ex. 21.0, p. 6-7.) Mr. Martin's testimony as summarized above was completely unrebutted.

As Mr. Martin cautiously advises, "now is not the time to make significant changes to [AIC's] capital structure." (Ameren Ex. 21.0, p. 6.) He further warns that doing so could put AIC in jeopardy of a downgrade and potentially increase the cost to ratepayers associated with EIMA improvements. (Id.)

Section 16-108.5 is clear with regard to use of actual capital structure for the applicable calendar year. The law and the policy it embodies, as well as the weight of the evidence in this docket point to only one sustainable conclusion: for the applicable calendar year of 2011, the Commission should approve AIC's capital structure as established in Mr. Martin's direct testimony, inclusive of a 54.85% equity ratio.

As a final note, AIC continues to advocate the use of year-end capital structure. Doing so honors the clearly stated intent of the law to use the actual capital structure for the applicable year. We fully recognize that the Commission decided against AIC in Docket 12-0001 with regard to this issue. Nonetheless, AIC does not depart from its conviction that the clear intent of 16-108.5 was to use FERC Form 1 totals as the formulaic inputs, which such inputs being the year-end totals. The actual capital structure is thus determined by recourse to the totals contained in FERC Form 1[1], not averages derived elsewhere. To the extent the Commission grants AIC's position and approves the actual 2011 capital structure but does so based upon average capital structure methodology, the Company is prepared to cooperate with Staff to submit a compliance calculation in support thereof.

[1] With recourse to Form ILCC 21 as that document contains the purchase accounting adjustments including the goodwill reduction.

D. The Order Erred by Deducting ADIT from Projected Capital Additions.

The Order reduces AIC's rate base by nearly $44 million to account for ADIT related to 2012 plant additions. (Order 30 & Appx. 5.) That adjustment is contrary to law and the evidence of the record. It should be reversed.

As the Order *concedes*, the EIMA is " '*silent altogether* with regard to ADIT . . . .'" (Order 29) (quoting Ameren Ill. Co., Docket 12-0001, Order, p. 52 (Sept. 19, 2012), and Commonwealth Edison Co., Docket 11-0721, Order, p. 59 (May 29, 2012)) (emphasis added).) Indeed, among the enumerated adjustments to projected plant in Section 16-108.5(c), ADIT is *not* included. 220 ILCS 5/16-108.5(c). That exclusion exists notwithstanding the General Assembly's unquestionable awareness of deferred taxes as they relate to utility rates and rate base. See, e.g., 220 ILCS 5/16-108.5(c)(D)(4); 220 ILCS 5/16-108.5(j); Commonwealth Edison Co. v. Ill. Commerce Comm'n, 405 Ill. App. 3d 389, 397, 402 (2d Dist. 2010) (recognizing adjustments to rate base for ADIT). And the exclusion creates a presumption the legislature intentionally withheld from the Commission the authority to impose an un-enumerated adjustment for ADIT. See Keene Corp. v. U.S., 508 U.S. 200, 208 (1993); State v. Mikusch, 138 Ill. 2d 242, 250 (1990) ("It is established in statutory construction that the expression of certain exceptions in a statute will be construed as an exclusion of all others."); N. Moraine Wastewater Reclamation Dist. v. Ill. Commerce Comm'n, 392 Ill. App. 3d 542, 565 (2d Dist. 2009) ("Under the principle of *inclusio unius est exclusio alterius*, the enumeration of one thing in a statute is construed as the exclusion of all others."). (AIC Init. Br. 11-12.) Respectfully, that should end the discussion.

It does not. Instead, the Order devotes substantial text to explaining *why* the un-enumerated adjustment is "appropriate." (Order 30.) That the Order deems a lengthy rationalization on this issue necessary is itself evidence the adjustment is unlawful. The EIMA

presents a detailed legislative scheme that balances benefits and burdens for utilities that elect to participate. See Crusius v. Ill. Gaming Bd., 216 Ill. 2d 315, 329 (2005) ("Legislation often has multiple purposes whose furtherance involves balancing and compromise by the legislature."); Wirtz v. Quinn, 953 N.E.2d 899, 911 (Ill. 2011) ("A diverse and complex enactment … is likely to result from compromise and negotiation among the members of the General Assembly"). As such, the Commission has no discretion to deviate from the EIMA's directives. See Gibellina v. Handley, 127 Ill.2d 122, 132-33 (1989) ("court will not unequivocally alter a clear decision of the legislature on a matter which is within the scope of the legislature's authority"). The Commission simply cannot correct a perceived error in Illinois' statutory text, no matter how egregious it perceives the consequences of the error; no amount of explanation alters this rule. Beckmire v. Ristokrat Clay Products Co., 36 Ill. App. 3d 411, 415 (2d Dist. 1976); Am. Steel Foundries v. Gordon, 404 Ill. 174, 180-81 (1949).

In fact, as recently as November 29, 2012, the General Assembly reminded the Commission of this:

> The Illinois Supreme and Appellate Courts have consistently held that, because the administrative agencies are creatures of statute, administrative agencies possess only those powers expressly delegated by law and may not act beyond their statutorily delegated authority; and . . . [t]he Illinois Supreme and Appellate Courts have consistently held that public policy in Illinois is expressed by the General Assembly, and it is not the province of an administrative agency to inquire into the wisdom and propriety of the legislature's act or to substitute its own judgment for that of the legislature . . . .

S.R. 821 (Ill. 2012). Put simply, the plain language of the EIMA and Illinois law directing the Commission in the Act's application provide the simple answer to (what should be) an uncomplicated issue: there is no adjustment for ADIT on projected plant here.

The several bases articulated by the Order for its departure from those authorities are as misplaced as that departure itself. First, the Order states the EIMA "makes it clear that the

Commission shall evaluate formula rate revenue requirement determinations based on Article IX *ratemaking principles*." (Order 29 (emphasis added).) It then cites Section 16-108.5(d) which requires the Commission to "apply the same *evidentiary standards*, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, in the hearing as it would apply in a hearing to review a filing for a general increase in rates under Article IX of this Act." 220 ILCS 5/16-108.5(d). Section 16-108.5(c) contains similar language. 220 ILCS 5/16-108.5(c). Here again, the Order disregards the plain language of the EIMA. "Evidentiary standards" are not "ratemaking principles." "Evidentiary standards" applied at hearing include the sufficiency of evidence, the burden of proof, or the standards of proof (such as the prudency of an expense). These are not "ratemaking principles," and the Order does not explain why it equates the former to the latter.

Next, the Order suggests to ignore ADIT on plant investments would be to ignore basic accounting principles and "appellate precedent." (Order 29.) Respectfully, it is more egregious to *write into the EIMA* an ADIT adjustment and, thus, to ignore the plain text of the Act. It cannot be disputed the General Assembly was aware of "basic accounting principles," yet it specifically identified which plant components were to be updated, and it excluded ADIT from that list. Further, the "appellate precedent" cited by the Order is an appeal which was pending at the time of the EIMA's enactment and so cannot be construed to interpret the EIMA. See, e.g., 220 ILCS 5/16-108.5(c)(4)(D) (preserving the depreciation reserve adjustment at issue in another appeal). Moreover, that "appellant precedent" was an appeal from an Article IX rate case and is, for that reason, inapposite in any event. See Ameren Ill. Co. v. Ill. Commerce Comm'n, 967 N.E.2d 298 (4th Dist. 2012).

Third, the Order expresses concern that, absent the adjustment, AIC would receive a

"windfall" and rates would be "artificially increase[ed]." (Order 29-30.) It should be reiterated that the Commission may not legislate where it perceives a deficiency in clear statutory text. That aside, the Order's concern here ignores the record. Under EIMA's new rate-setting scheme, wherein formula rates are to be established based on actual costs and reconciled annually with actual costs, by the time rates are in effect for each successive update proceeding, AIC will have actually incurred the capital costs for that projected year. (See AIC Init. Br. 12; Ameren Ex. 19.0R (Stafford Reb.), pp. 18-19.) Any over- or under-recovery produced by rates in effect during 2012 will show up as an adjustment to rates established in 2013 (and effective as of January 2014). (AIC Init. Br. 12.) As such, there is no "windfall" to AIC, or inflated expense to ratepayers.

Finally, the Order concludes the adjustment for ADIT is "appropriate" because the same was applied in Dockets 11-0721 and 12-0001. Respectfully, the orders in those dockets got it wrong. And the record here reflects new evidence and legislature developments since those cases were decided. (See AIC Ex. 18.1 (H.R. 1157 (Ill. 2012)); Notice of Legislative Action, Ex. A (S.R. 821 (Ill. 2012)) (filed Dec. 3, 2012).) Since those orders, the General Assembly has unequivocally stated:

> The Illinois Commerce Commission Orders, entered on May 29, 2012 and September 19, 2012, in Commission Docket Nos. 11-0721 and 12-0001, respectively, failed to reflect the statutory directives and the intent of the Illinois General Assembly regarding *numerous* issues, including, *but not limited to*, the pension asset, interest rate, and rate base issues . . . .

S.R. 821 (Ill. 2012), p. 4 (emphasis added) (also noting rehearing was sought in Docket 11-0711 "on a number of wrongly decided issues" (including this ADIT issue), but the Commission granted rehearing with respect to only three, and noting Ameren also sought rehearing in Docket 12-0001 "on a number of wrongly decided issues"). Moreover, both orders are the subject of

pending appellate review. Id., pp. 4-5. Thus, neither can be considered dispositive.

The Commission cannot act outside its statutory boundaries. Yet, in reading an adjustment for ADIT into Section 16-108.5(c), that is precisely what the Commission has done. And, in so disregarding the plain language of the EIMA in order to effectuate its own statutory end, the Commission has disregarded the processes of compromise and balancing that resulted in the EIMA and has thus prevented the effectuation of legislative intent. See Bd. of Governors of Fed. Reserve Sys. v. Dimension Fin. Corp., 474 U.S. 361, 374 (1986). The Commission should grant rehearing on this issue for the purpose of reversing the Order's unlawful adjustment for projected plant ADIT.

E. The Order Erred by Mandating Use of Average Rate Base for Reconciliation, as Opposed to Year-End Rate Base.

The Order determines that the reconciliation revenue requirement should be determined using a reconciliation rate base calculated based on average data, rather than year-end data. (Order 111.) The Order finds that, since the sole purpose of this proceeding is to update the inputs for the performance-based rate established in Docket 12-0001, the Commission is prohibited from altering the performance-based rate itself. (Id.) Further, the Order finds that AIC has not identified any change in law or facts that would justify a departure from the decision in Docket 12-0001. (Id.) In reaching these conclusions, however, the Order ignores the record in this case, the language of the statute, established principles of statutory interpretation, and direct input from the legislature, in the form of House and Senate resolutions. In light of these unacceptable deviations, the Order is not supported by substantial evidence and is contrary to the EIMA. The Commission must revise its Order to require use of year-end rate base.

"[T]he most reliable indicator of the legislature's intent is the language of the statute, which must be given its plain and ordinary meaning." In re DF, 208 Ill.3d 223, 229 (2003). In

Section 16-108.5(c)(6), the EIMA requires that the formula rate tariff "provide for an annual reconciliation . . . of the revenue requirement reflected in rates for each calendar year . . . with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date." 220 ILCS 5/16-108.5(c)(6). The EIMA further provides that the inputs to this reconciliation calculation "shall be based on *final* historical data reflected in the utility's most recently filed annual FERC Form 1." 220 ILCS 5/16-108.5(d)(1) (emphasis added). In other words, the reconciliation amount is calculated by comparing the "cost inputs for the prior rate year" against the "actual revenue requirement for the prior rate year (as reflected in the applicable FERC Form 1 that reports the actual costs for the prior rate year)." Id.

As AIC explained in its Initial and Reply Briefs (AIC Init. Br. 69-73; AIC Reply Br. 44-46), this plain language of the EIMA leaves nothing to interpretation: the reconciliation calculation must be based on *final* data, as reported on the utility's prior-year FERC Form 1. For example, the annual update filing occurring in May 2013 will reconcile the "cost inputs for the prior rate year," which are based on the 2011 FERC Form 1 and projected plant for 2012, against the "actual costs for the prior rate year," which is the now known and final amounts for 2012. Obviously, 2012 will be a historical period by the time the update proceeding is filed in May 2013. Therefore, the "actual costs" for 2012 will be known and recorded on the 2012 FERC Form 1. Within this context, final historical data recorded on the utility's FERC Form 1 must be used to calculate year-end rate base. Moreover, the term "average" is conspicuously absent from Section 16-108.5, and its absence confirms that year-end rate base must be used in reconciliation proceedings. (AIC Init. Br. 70-71).

As did the order in Docket 12-0001, the Order here ignores the plain language of the

statute. The Order's primary justification for the continued use of average, as opposed to year-end, rate base, is that AIC has failed to identify a change in law or facts that would support a departure from the Commission's Order in Docket 12-0001. However, in making this assertion, the Order ignores the record before the Commission. The Illinois House and Senate have passed Resolutions confirming that the plain language of the EIMA means what it says, and that the Orders here and in Docket 12-0001 were based on a misapplication of the EIMA. See H.R. 1157 (Ill. 2012); (Ameren Exhibit 18.1); S.R. 821 (Ill. 2012); Notice of Legislative Action (Corr.), Docket 12-0293 (Dec. 3, 2012). Illinois House Resolution 1157, which is part of the evidentiary record in this case (Ameren Ex. 18.1), but was not in Docket 12-0001, states that "no statutory authority was given to the Illinois Commerce Commission to set rate base and capital structure using average numbers that do not represent final year-end values reflected in the FERC Form 1, and the Illinois Commerce Commission's use of such average is contrary to the statute." H.R. 1157 (Ill. 2012). Further, the record in this case shows that the legal landscape has changed further since Docket 12-0001: after the final order was issued in Docket 12-0001, the Illinois Senate reiterated H.R. 1157, passing an almost identical resolution by an overwhelming margin of 47 to 4. S.R. 821 (Ill. 2012); Notice of Legislative Action (Corr.), Docket 12-0293 (Dec. 3, 2012). Yet, the Order simply ignores the direction provided by the General Assembly in the Resolutions.

The Commission "derives its power and authority solely from the statute creating it, and its acts or orders which are beyond the purview of the statute are void." Commonwealth Edison Co. v. Ill. Comm. Comm'n, 332 Ill. App. 3d 1038, 1048 (2nd Dist. 2002) (citing City of Chi. V. Ill. Comm. Comm'n, 79 Ill. 2d 213, 217-18 (1980)). As a regulatory body, the Commission may not substitute its judgment for that of the legislature, and, as Commissioner O'Connell-Diaz

pointed out in Docket 12-0001, "it is inappropriate for the Commission to cast aspersions or intimate that the General Assembly has failed to balance the interests of consumers, [against those of the] utility and its shareholders." Dissent, Docket 12-0001, p. 5 (Dec. 12, 2012). Instead, the Commission must "construe the statute as written and may not, under the guise of construction, remedy defects, annex new provisions, add exceptions, limitations or conditions." Cty. of Kankakee v. Ill. Pollution Control Bd., 396 Ill. App. 3d 1000, 1027 (3rd Dist., 2009). This Order need not blindly follow the Commission's incorrect interpretation of the EIMA in Docket 12-0001. Instead, rehearing is appropriate to revise the formula rate template, in accordance with the EIMA's procedures, to set reconciliation rate base at year-end values.

F. The Order Erred in Setting the Interest Rate Applicable to Reconciliation Balances at AIC's Short-Term Debt Cost Rate, as Opposed to its Weighted Average Cost of Capital.

The Order sets the interest rate applicable to AIC's reconciliation balances at the Company's short-term debt cost rate, rather than the Company's weighted average cost of capital (WACC). (Order 114.) The Order finds that, since the sole purpose of this proceeding is to update the inputs for the performance-based rate established in Docket 12-0001, it is prohibited from altering the performance-based rate formula. (Id.) And the Order finds, as it has with the issues above, that AIC has not identified any change in law or facts that would justify a departure from the decision in Docket 12-0001. (Id.) In reaching these conclusions, however, the Order ignores the record in this case, the language of the statute, established principles of statutory interpretation, and the direct input in from the legislature, in the form of House and Senate Resolutions. Thus, the Order is not supported by substantial evidence and is contrary to the EIMA. The Commission must revise its Order to require use of the WACC as the interest rate for reconciliations.

The EIMA requires the Commission to "provide for an annual reconciliation, with

interest," but does not describe precisely the interest rate to be used. 220 ILCS 5/16-108.5(c)(6). However, the EIMA directs the Commission to allow a participating utility to recover its "actual costs of delivery services." 220 ILCS 5/16-108.5(c)(1). Certainly, the cost of carrying reconciliation balances on the utility's books is an actual cost of delivery service. Therefore, the utility's costs associated with carrying that balance must be recovered. The WACC represents what the Company actually pays for capital. (Ameren Ex. 9.0, pp. 11-13.) As such, the WACC is the only interest rate that will fully compensate AIC for the time-value of its actual costs associated with carrying a reconciliation balance on its books. (Id.); see also Dissenting Opinion (O'Connell-Diaz), Docket 12-0001, p. 9 (Dec. 12, 2012) (recognizing that "the only interest rate that will make AIC whole is the interest rate that the Company itself actually pays to finance the costs for which it has the delayed recovery occasioned by the reconciliation process under EIMA."). Moreover, application of the WACC to reconciliation balances will work to the benefit of customers in the event of over-collection.

Instead, however, the Order applies the cost of short-term debt as the interest rate on reconciliation balances. This outcome is problematic for several reasons. First, short-term debt is not a practicable option for financing reconciliation balances because those balances are not short-term. Short-term debt is debt issued for a period of less than one year. 83 Ill. Adm. Code § 285.115. However, under the recovery schedule outlined in the EIMA, an under-recovery experienced in Year 1 will be the subject of an update filing in Year 2 and will be reflected in rates in Year 3. In other words, the recovery period is two years because the under-recovery experienced in Year 1 will not be fully recovered until the end of Year 3. Essentially, the Order requires that investment with a life beyond one year be funded with debt issued for a period of less than one year. (Ameren Ex. 9.0 (Nelson Reb.) pp. 11-12.)

Second, a short-term debt cost rate will not compensate AIC for its actual costs of accessing capital markets. Use of short-term debt to finance reconciliation balances would then require AIC to increase the proportion of debt within its capital structure. Such alterations in capital structure are "not something the Commission would expect a utility to do without careful consideration." Dissenting Opinion (O'Connell-Diaz), Docket 12-0001, p. 5 (Dec. 12, 2012). However, the Orders in this Docket and in Docket 12-0001 give no consideration to the impact that such a change in capital structure would have on the utility's financial condition and credit ratings or the prudency of such an approach.

Third, effectively requiring that AIC finance the portion of its capitalization associated with reconciliation balances solely using debt is illogical and unreasonable. Essentially, the Order would require AIC to finance reconciliation balances – which are, by definition, outstanding unrecovered amounts similar in nature to working capital – using only short-term debt. Meanwhile, the rest of AIC's investment and working capital is supported by AIC's WACC, its full mix of capital. In light of these inconsistencies, it is far more reasonable that the reconciliation balances be supported using the same mix of capital as all other investment.

Not only is the WACC the logical interest rate to apply to reconciliation balances, the Illinois General Assembly has confirmed that the WACC is to be used for that purpose, since it "represents the reasonable cost and means of financing a utility's investments and operating costs so that the utility and customers are made whole." H.R. 1157 (Ill. 2012). The General Assembly further resolved that the Commission's Order in Docket 12-0001, on which the Order in this case is exclusively based, "fails to reflect the statutory directives and intent [by] . . . assessing interest on those amounts to be credited or charged to customers as set forth in subsection (d) of Section 16-108.5 of the Public Utilities Act at an amount that is not based on

the utility's weighted average cost of capital." Id. See also S.R. 821 (Ill. 2012) (resolving the same).

As discussed at length above, the Commission has only the powers delegated to it by the General Assembly. The Commission's Order in Docket 12-0001 strayed significantly outside these bounds with respect to the interest rate applicable to reconciliation balances; therefore, continued reliance by the Commission on that order's findings would be inappropriate.

Finally, not only do the Illinois House and Senate resolutions provide confirmation that the EIMA's plain language means what it says with respect to reconciliation interest rates, as discussed above, they also represent legislative developments and evidentiary facts not in existence at the time of the order in Docket 12-0001. As a result, rehearing is appropriate to revise the formula rate to set the interest rate applicable to reconciliation balances at the WACC.

III. CONCLUSION

For the reasons set forth above, AIC requests that the Commission grant rehearing of the Order for the reasons discussed herein.

Dated: December 21, 2012

Respectfully submitted,

Ameren Illinois Company
d/b/a Ameren Illinois

/s/ Albert D. Sturtevant

One of their Attorneys

Mark A. Whitt
Christopher T. Kennedy
WHITT STURTEVANT LLP
88 East Broad Street, Suite 1590
Columbus, Ohio 43215
(614) 224-3911
whitt@whitt-sturtevant.com
kennedy@whitt-sturtevant.com

Albert D. Sturtevant
Rebecca L. Segal
WHITT STURTEVANT LLP
180 N. LaSalle Street, Suite 2001
Chicago, Illinois 60601
(312) 251-3017
sturtevant@whitt-sturtevant.com
segal@whitt-sturtevant.com

Christopher W. Flynn
Attorney at Law
180 N. LaSalle Street, Suite 2001
Chicago, Illinois 60601
cwflynnlaw@gmail.com

Edward C. Fitzhenry
Matthew R. Tomc
AMEREN SERVICES COMPANY
One Ameren Plaza
1901 Chouteau Avenue
St. Louis, Missouri 63166
(314) 554-3533
(314) 554-4014 (fax)
efitzhenry@ameren.com
mtomc@ameren.com

VERIFICATION

Jacqueline K. Voiles, Director of Regulatory Affairs for Ameren Illinois Company, being first duly sworn, states that she has read the foregoing Application for Rehearing of Ameren Illinois Company, that she is familiar with the statements made therein, and that the statements made therein are true and correct to the best of her knowledge.

Jacqueline K. Voiles

"OFFICIAL SEAL"
Rebecca L Nave
Notary Public, State of Illinois
My Commission Expires 7/12/2014

SUBSCRIBED AND SWORN
To before me this 31st day of December, 2012

Notary Public

CERTIFICATE OF SERVICE

I, Mark A. Whitt, an attorney, certify that on December 21, 2012, I caused a copy of the foregoing *Application for Rehearing of Ameren Illinois Company* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0293.

/s/ Albert D. Sturtevant
Attorney for Ameren Illinois Company